BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Promotion of Competitive Networks in	)	
Local Telecommunications Markets	)	WT Docket No. 99-217
	)	
Wireless Communications Association	)	
International, Inc. Petition for Rulemaking to	)	
Amend Section 1.4000 of the Commission's Rules	)	
to Preempt Restrictions on Subscriber Premises	)	
Reception or Transmission Antennas Designed To	)	
Provide Fixed Wireless Services	)	
	)	
Cellular Telecommunications Industry	)	
Association Petition for Rule Making and	)	
Amendment of the Commission's Rules	)	
to Preempt State and Local Imposition of	)	
Discriminatory And/Or Excessive Taxes	)	
and Assessments	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications Act	)	
of 1996	)	

SMART BUILDINGS POLICY PROJECT
COMMENTS IN RESPONSE TO PETITIONS FOR RECONSIDERATION

Philip L. Verveer
Gunnar D. Halley
Angie W. Kronenberg

WILLKIE FARR & GALLAGHER
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036
(202) 328-8000

Its Attorneys

Dated: March 14, 2001

TABLE OF CONTENTS

Page

I. INTRODUCTION 2

II. THE COMMISSION'S ADOPTION OF RULES IN THE COMPETITIVE NETWORKS RULEMAKING WAS NEITHER ARBITRARY NOR CAPRICIOUS. 2

III. THE LIMITED ACTIONS TAKEN BY THE COMPETITIVE NETWORKS DECISION WERE FULLY WITHIN THE COMMISSION'S AUTHORITY. 6

IV. THE COMMISSION SHOULD REJECT PETITIONERS' SUGGESTIONS TO ABANDON APPLICATION OF SECTION 224 TO MTE INTERIORS. 9

V. THE COMMISSION SHOULD REJECT PETITIONERS' CONTENTIONS THAT THE COMPETITIVE NETWORKS INTERPRETATION OF SECTION 224 EXCEEDS THE AGENCY'S AUTHORITY. 11

VI. THE COMMISSION SHOULD NOT RECONSIDER THE DEMARCATION POINT RULES ADOPTED IN THE *COMPETITIVE NETWORKS* DECISION. 14

VII. THE COMMISSION SHOULD AFFIRM ITS OTARD EXTENSION. 18

VIII. IF MODIFIED, THE COMMISSION'S BAN ON EXCLUSIVES MUST CONTINUE TO PREVENT CARRIERS FROM ENTERING INTO ACCESS ARRANGEMENTS THAT WOULD EXCLUDE FIXED WIRELESS CARRIERS. 19

IX. CONCLUSION 20

SUMMARY

- The Commission received and considered an enormous amount of information demonstrating that telecommunications carrier access to multi-tenant buildings was impeded to such a degree that adoption of the *Competitive Networks First Report and Order* was warranted and reasonable. Notwithstanding the substantial evidence on the record, the threshold predicate for reasonable Commission's action is not so high a standard as is implied by Petitioners.

- The Communications Act provides the Commission sufficient authority for the actions taken in the *Competitive Networks First Report and Order*. Although the abuse of MTE owners' market power was demonstrated in the *Competitive Networks* rulemaking, it is not necessary for the Commission to pursue an antitrust analysis to define the relevant geographic market and reveal the classic exercise of market power before it may act within its statutory authority.

- The Commission was correct to conclude that application of Section 224 applies to all utilities and extends to facilities owned or controlled by utilities in MTE interiors and should not reconsider that decision.

- By defining "right-of-way" for purposes of implementing Section 224, the Commission was engaged in the lawful and common federal agency procedure of giving effect to ambiguous terms in a federal statute so as to accomplish the statutory purpose.

- The Commission should reject the proposal to require approval of all subscribers in an MTE before a telephone company is required to relocate the demarcation point upon the request of a building owner. The Commission merely reasserted and clarified the operation of existing demarcation rules and should not adopt requirements, such as the one proposed by BellSouth, that would increase the difficulty of providing competitive facilities-based telecommunications service within MTEs.

- The Commission's extension of its Over-The-Air Reception Devices rules to include fixed wireless devices was permitted by the agency's statutory authority.

- The Commission must not abide the exclusion of fixed wireless antennas from MTE rooftops by exclusive CMRS MTE rooftop access agreements.

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Promotion of Competitive Networks in	)	
Local Telecommunications Markets	)	WT Docket No. 99-217
	)	
Wireless Communications Association	)	
International, Inc. Petition for Rulemaking to	)	
Amend Section 1.4000 of the Commission's Rules	)	
to Preempt Restrictions on Subscriber Premises	)	
Reception or Transmission Antennas Designed To	)	
Provide Fixed Wireless Services	)	
	)	
Cellular Telecommunications Industry	)	
Association Petition for Rule Making and	)	
Amendment of the Commission's Rules	)	
to Preempt State and Local Imposition of	)	
Discriminatory And/Or Excessive Taxes	)	
and Assessments	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications Act	)	
of 1996	)	

SMART BUILDINGS POLICY PROJECT
COMMENTS IN RESPONSE TO PETITIONS FOR RECONSIDERATION

The Smart Buildings Policy Project ("SBPP")[1] hereby submits its Comments in Response to Petitions for Reconsideration of the *Competitive Networks First Report and Order* in the above-captioned proceeding.[2]

---

[1] The Smart Buildings Policy Project is a coalition of telecommunications carriers, equipment manufacturers, and organizations that support nondiscriminatory telecommunications carrier access to tenants in multi-tenant environments. The SBPP presently includes Alcatel USA, American Electronics Association, Association for Local Telecommunications Services, AT&T, Comcast Business Communications, Commercial Internet eXchange Association, Competition Policy Institute, Competitive Telecommunications Association, DMC Stratex Networks, Focal Communications Corporation, The Harris

I. INTRODUCTION

The *Competitive Networks First Report and Order* represents a quite measured yet necessary "first step" in ensuring that tenants in multi-tenant environments ("MTEs") can avail themselves of facilities-based telecommunications competition. The Commission considered an extraordinary amount of information and legal analysis and explained its ultimate conclusions in a well-reasoned and thorough manner. With exceptions discussed in SBPP's Petition for Limited Reconsideration, the Commission should remain confident in the judgments reflected in the *Competitive Networks* decision and should continue to move forward with policies that permit realization of facilities-based telecommunications competition.

II. THE COMMISSION'S ADOPTION OF RULES IN THE COMPETITIVE NETWORKS RULEMAKING WAS NEITHER ARBITRARY NOR CAPRICIOUS.

The RAA claims that the Commission placed too much reliance on "anonymous anecdotes" in concluding that an access problem existed sufficient to warrant regulatory intervention.[3] Notwithstanding these assertions, the Commission possessed more than adequate bases for adopting its rules. For example, in a September 5, 2000 letter filed with the Commission, the Smart Buildings Policy Project explained that E.V. Bishoff, a real estate company in Pittsburgh, was forcing a tenant to switch its local service from Verizon to the

---

Corporation, Highspeed.com, Information Technology Association of America, Lucent Technologies, NetVoice Technologies, Inc., Network Telephone Corporation, Nokia Inc., International Communications Association, P-Com, Inc., Siemens, Telecommunications Industry Association, Teligent, Time Warner Telecom, Winstar Communications, Inc., Wireless Communications Association International, WorldCom, and XO Communications, Inc. The SBPP website can be viewed at <www.buildingconnections.org>.

2 Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket No. 99-217, *First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket No. 96-98, and Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57*, FCC 00-366 (rel. Oct. 25, 2000)("*Competitive Networks First Report and Order*").

3 Petition for Reconsideration of the Real Access Alliance at 3-4 (filed Feb. 12, 2001)("RAA Petition").

carrier chosen by the landlord against the wishes of the tenant.[4] Edge Connections submitted to the Commission a contract provision used regularly by Broadband Office landlord partners to restrict access to buildings for telecommunications carrier competitors of Broadband Office.[5] The Smart Buildings Policy Project also informed the Commission that S.L. Green, a real estate company in New York City, routinely refused access to competitive carriers even though tenants in those Green buildings alerted the landlord that they wished to take service from these competitive carriers. Consumers and their representative organizations also encouraged the Commission to take action explaining the difficulties they or their members had encountered when trying to overcome landlord-imposed restrictions on access to facilities-based carriers.[6]

To the extent that the scores of other examples provided did not identify the building owner or carrier involved in the conflict, the absence of names resulted from a fear of reprisal in the marketplace by the landlord against the complaining carrier or tenant.[7] Moreover, the named examples, the unnamed examples, and the recognition that States across the country were

---

4 See Letter from Tom Cohen, Smart Buildings Policy Project to William E. Kennard, Chairman, et al., Federal Communications Commission, at 1-2 (filed Sep. 5, 2000).

5 See Letter from Todd D. Daubert, Counsel to Edge Connections, Inc. to Magalie Roman Salas, Secretary, Federal Communications Commission (filed Sep. 1, 2000).

6 See, e.g., Letter from Martin Corry, Director, Federal Affairs, AARP, to William E. Kennard, Chairman, FCC, (filed Sep. 20, 2000); see also Letter from Gene Kimmelman, Co-Director, Washington Office, Consumers Union, to William E. Kennard, Chairman, FCC, dated Sep. 19, 2000; Letter from Brian Cummings, Cummings, McGlone & Associates, to William E. Kennard, Chairman, Federal Communications Commission (filed Oct. 8, 1999).

7 Moreover, the *Competitive Networks* rulemaking is not a trial proceeding in which the accused have both a right and an interest in confronting witnesses against them. Individual building owners were not being singled out secretly nor was action against any particular building owner being encouraged. Rather, commenters were simply informing the Commission of problems that carriers and tenants encountered in the marketplace and provided examples to demonstrate both the extent and nature of those problems. To require that a full discussion of access issues occur on a building-by-building, problem-by-problem, landlord-by-landlord basis before any rulemaking action could occur would delay the necessary rules indefinitely.

investigating the building access problem and were finding it in need of regulatory remedies[8] were sufficient to provide the Commission with a more than adequate basis in the record to promulgate rules to enhance the ability of tenants in MTEs to choose their facilities-based telecommunications carriers of choice.

The RAA cannot credibly claim that its submissions demanded a greater weight in consideration than the information provided by the SBPP, carriers, and consumers. The "statistical evidence" submitted by the RAA was not statistical in any meaningful sense of the word.[9] The "study" fails to present the Commission with a statistically significant and comprehensive source of information. As noted in the SBPP's Further Reply Comments, the unreliable and statistically insignificant RAA study[10] was examined by an economist in an attachment to Winstar's reply comments nearly a year and a half ago who found it to illustrate the existence of a severe building access problem.[11]

Nevertheless, on several occasions, the Supreme Court has confirmed that the Commission does not need the information to act that it had, but that the RAA erroneously asserts that it lacked.

> [T]he Commission's decisions must sometimes rest on judgment and prediction rather than pure factual determinations. In such cases complete factual support for the Commission's ultimate conclusions is not required since 'a forecast of the direction in

---

8 See *Competitive Networks First Report and Order* at ¶ 28, n.73; see also id. at ¶ 87, n.228.

9 See RAA Petition at 4-5.

10 Reply Comments of Winstar Communications, Inc. at 14 (filed Sep. 27, 1999).

11 See Dr. John B. Hayes, "Economic Analysis of the Market for Building Access," Exh. 1 to the Reply Comments of Winstar Communications, Inc. (filed Sep. 27, 1999).

> which future public interest lies necessarily involves deductions based on the expert knowledge of the agency.'[12]

The RAA's suggestion not only finds itself at odds with controlling legal precedent, but it is nonsensical in that it would suggest that the Commission could never act preemptively to prevent widespread harm before it occurs.[13] The Commission itself has recognized that sometimes it must proceed in advance of the actual occurrence of potential harms as a function of acting within the public interest:

> Our responsibilities are not discharged . . . by withholding action until indisputable proof of irreparable damage to the public interest in television broadcasting has been compiled - i.e., by waiting 'until the bodies pile up' before conceding that a problem exists. Our duty is 'to encourage the larger and more effective use of radio in the public interest' - ensure that all the people of the United States have the maximum feasible opportunity to enjoy the benefits of broadcasting service. To accomplish this goal, we must plan in advance of foreseeable events, instead of waiting to react to them.[14]

After consideration of over a thousand exhaustive legal and technical comments submitted to the Commission over the course of nearly a year and a half, and after a number of congressional hearings on the topic, debates between the real estate industry and the telecommunications industry, tours of MTEs, submissions of economic analyses, the experience and testimony from several States, and presentations by nationally recognized legal experts, the

---

12 See F.C.C. v. WNCN Listeners Guild, 450 U.S. 582, 594-595 (1981)(quoting FCC v. National Citizens Committee for Broadcasting, 436 U.S. 775, 814 (1978)); see also United States v. Southwestern Cable Co., 392 U.S. 157, 175-177 (1968)(approving the FCC's actions notwithstanding the absence of FCC certainty concerning the potential harm to the public interest and noting substantial evidence that the FCC could not "discharge its overall responsibilities" without exercise of authority over a previously unregulated industry).

13 See GTE Services Corp. v. FCC, 474 F.2d 724, 731 (2d Cir. 1973)("It is irrelevant that the rule is aimed at potential rather than actual domination or restraints, or that the Commission is not certain that the developments forecast will occur if the rule is not enacted.")(quoting Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470, 487 (2d. Cir. 1971)).

14 Rules re: Microwave TV, Docket Nos. 14895 and 15233, *First Report and Order*, 38 FCC 683 at ¶ 48 (1965).

RAA simply cannot legitimately contend nor demonstrate that the Commission lacked a rational basis for coming to the conclusion that led to adoption of the rules in the *Competitive Networks First Report and Order*.

III. THE LIMITED ACTIONS TAKEN BY THE COMPETITIVE NETWORKS DECISION WERE FULLY WITHIN THE COMMISSION'S AUTHORITY.

The RAA seeks to resurrect the discredited and rejected claim that MTE owners lack market power yet fails to offer any basis for reconsidering that well-founded conclusion.[15] Indeed, the Commission was presented with evidence that the building owners are extending their market power over access to MTEs into telecommunications markets by favoring their affiliates. For example, there is evidence on the record that real estate interests with investments in BLEC Broadband Office have sought to give their affiliate the head-start advantage by delaying MTE access for Broadband Office's competitors.[16] Nevertheless, the extension of monopoly power into another field is not the only socially detrimental monopolist behavior practiced by the MTE owners. The record before the Commission contains evidence of building owners' extraction of monopoly profits for access to captive tenants.[17]

---

15 RAA Petition at 7.

16 See Letter from Todd D. Daubert, Counsel to Edge Connections, Inc. to Magalie Roman Salas, Secretary, Federal Communications Commission (filed Sep. 1, 2000). This "head-start" advantage is not incidental. *See* Attachment to Letter from Gunnar D. Halley, Willkie Farr & Gallagher, to Magalie Roman Salas, Secretary, Federal Communications Commission (filed July 12, 2000) *Emerging Telecom & Internet Infrastructure Conference, High Yield Research,* Goldman Sachs (June 2000) at 12 (explaining that Allied Riser's partnership with 12 leading real estate owners provides "a first mover advantage and a strong barrier to entry.").

17 See *Competitive Networks First Report and Order* at ¶¶ 17-18.

Contrary to assertions by the RAA, the Commission possesses authority to promote antitrust principles.[18] Indeed, regulatory oversight traditionally has imposed broad duties to deal upon regulated utilities which operate concurrent with antitrust laws to enforce general antitrust principles.[19] Moreover, the RAA finds no protections in the antitrust jurisprudence. Courts have found single buildings to constitute relevant geographic markets for purposes of the antitrust laws, even where alternative locations for doing business were available.[20] As the First Circuit explained:

> Reasonable criteria of selection, therefore, such as lack of available space, financial unsoundness, or possibly low business or ethical standards, would not violate the standards of the Sherman Antitrust Act. But the latent monopolist must justify the exclusion of a competitor from a market which he controls. Where, as here, a business group understandably susceptible to the temptations of explaining its natural advantage against competitors prevents one previously acceptable from hawking his wares beside them any longer at the very moment of his affiliation with a potentially lower priced outsider, they may be called upon for a necessary explanation. The conjunction of power and motive to exclude with an exclusion not immediately and patently justified by reasonable business requirements establishes a prima facie case of the purpose to monopolize.[21]

As the real estate industry begins to participate in the telecommunications markets, the antitrust concerns are increased greatly. As A.D. Neale notes in his seminal treatise on antitrust law:

---

18 See, e.g., United States v. F.C.C., 652 F.2d 72, 81-82 (D.C. Cir. 1980)("More than ten years ago this court made clear that 'competitive considerations are an important element of the "public interest"' standard which governs federal agency decisions. We therefore required such agencies to 'make findings related to the pertinent antitrust policies, draw conclusions from the findings, and weigh these conclusions along with other important public interest considerations.'")(quoting Northern Natural Gas Co. v. FPC, 399 F.2d 953, 961 (D.C. Cir. 1968)).

19 See Phillip E. Areeda and Herbert Hovenkamp, Antitrust Law, ¶ 787c1 (1996)("Although antitrust is not concerned with rates as such, it becomes concerned when the utility's attempt to enlarge profits eliminates competition in a collateral market capable of being competitive.").

20 See GAMCO, Inc. v. Providence Fruit & Produce Building, 194 F.2d 484 (1st Cir. 1952).

21 Id. at 487-88.

> [T]he lesson of the 'bottleneck' cases in general is clear enough. They establish that if you have dominant power in the market, no matter how innocently and inescapably you came by it, you are obliged under antitrust to take the greatest care not to 'throw it about.' . . . If your monopoly consists in some physical facility like a rail or bus terminus or a market-building, you must even take your new rival in and share the facility with him without discrimination, unless it is clear that he is physically able to obtain or construct equivalent facilities for himself. As in the *Associated Press* case, the facility in question does not have to be indispensable for its denial to a rival to constitute a misuse of monopoly power. It is enough that the denial imposes a real competitive handicap on him.[22]

This discussion is largely academic. The classification of MTE owners as monopolists in the classic antitrust sense is not a necessary predicate to give the Commission the requisite authority or compulsion to respond to the inability of tenants to choose their facilities-based carriers. A market power finding may be required for successful antitrust prosecution, but not for regulatory action by the FCC. The Communications Act provides the Commission's source of authority.

Sections 1 and 2(a) of the Act, when "read together, give the Commission jurisdiction to enforce the Act with respect to 'all interstate and foreign communication by wire or radio.'"[23] This grant of authority, when considered in light of the definitions of wire communication and radio communication, provides the Commission subject matter jurisdiction over

---

22 A. D. NEALE, THE ANTITRUST LAWS OF THE UNITED STATES 135 (1968).

23 Promotion of Competitive Networks in Local Telecommunications Markets; Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed To Provide Fixed Wireless Services; Cellular Telecommunications Industry Association Petition for Rule Making and Amendment of the Commission's Rules to Preempt State and Local Imposition of Discriminatory And/Or Excessive Taxes and Assessments; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *Notice of Proposed Rulemaking and Notice of Inquiry in WT Docket No. 99-217, and Third Further Notice of Proposed Rulemaking in CC Docket No. 96-98*, 14 FCC Rcd 12673 at ¶ 56 (1999).

telecommunications carrier access to consumers in MTEs as well as *in personam* jurisdiction over the MTE owners themselves.[24] However, the *Competitive Networks* decision did not invoke the Commission's *in personam* jurisdiction over MTE owners. Rather, the rules apply only to the activities of telecommunications carriers and utilities that have an effect on areas within the Commission's subject matter jurisdiction. Although this regulation will affect building owners -- whether or not they possess market power -- this foreseeable effect does not invalidate an otherwise lawful exercise of Commission authority.[25]

IV. THE COMMISSION SHOULD REJECT PETITIONERS' SUGGESTIONS TO ABANDON APPLICATION OF SECTION 224 TO MTE INTERIORS.

Commonwealth Edison claims that:

> if indeed there is a problem with regard to access to multi-tenant environments, the problem rests with building owners and/or incumbent LECs, not electric utilities. . . . Because electric utilities are not part of the problem, they should not be swept into the solution by applying Section 224 to MTE access.[26]

---

[24] As noted in the definitional section of the Act, communications service involves not only transmission, but also services "incidental to" transmission. 47 U.S.C. §§ 153(33) and (52). Establishing a connection to the consumer is critical -- indeed, a prerequisite -- to transmission, and the Commission has authority over the way in which carriers accomplish this task. In its discussion of inside wire policies, BellSouth makes a valid point that "[b]y allowing non-subscriber building owners to control the individual service arrangements between wireline telecommunications providers and their tenant-subscriber customers, the Commission has engaged in an unwarranted deviation from its fundamental mission to 'ensure that telephone subscriber have reliable service at reasonable rates.'" Petition for Reconsideration of BellSouth at 3 (filed Feb. 12, 2001)("BellSouth Petition"). The SBPP is pleased to observe BellSouth's agreement with the fundamental principle underlying the need for the Commission to ensure that facilities-based telecommunications carriers obtain nondiscriminatory access to consumers in multi-tenant environments.

[25] Cable & Wireless PLC v. FCC, 166 F.3d 1224, 1230 (D.C. Cir. 1999) ("To be sure, the practical effect of the Order will be to reduce settlement rates charged by foreign carriers. But the Commission does not exceed its authority simply because a regulatory action has extraterritorial consequences. . . . .Indeed, no canon of administrative law requires us to view the regulatory scope of agency actions in terms of their practical or even foreseeable effects.")(citations omitted).

[26] Petition for Reconsideration of Commonwealth Edison Company and Duke Energy Corporation at 2-3 (filed Jan. 22, 2001)("Commonwealth Edison Petition").

Florida Power & Light ("FPL") also claims that the utilities are not the cause of access problems and are not the solution.[27] The Commission's interpretation of section 224 is not a punitive or even necessarily a remedial measure. It involves straight-forward statutory interpretation. Although one has been established in this rulemaking, there need not be an existing and demonstrable problem to give the Commission the authority to interpret its statute. One can argue indefinitely about the extent to which electric utilities erect barriers to the development of telecommunications competition, but such argument would be fruitless. Congress already decided to cover electric utilities with the statutory provision. The language of Section 224 provides no indication that the provision does not apply to utility ducts, conduits, and rights-of-way within MTEs or that the application of Section 224 to electric utilities is somehow more limited in scope than to other utilities, such as ILECs. Commonwealth Edison and FPL simply fail to provide a legitimate basis for reconsidering the Competitive Networks decision in this regard.

Indeed, notwithstanding their vehement opposition to the Commission's rules, the utility and real estate Petitioners also claim that the *Competitive Networks* decision does not apply to them. For example, they claim that in most cases electric utility facilities do not extend into MTEs.[28] Similarly, the RAA's opposition to the Commission's actions appears absurd if one believes RAA's contention that the 224 access provided by the *Competitive Networks* decision will rarely, if ever, be available.[29] Petitioners are correct in circumstances more limited than they would contend. For example, the electric utilities claim that where the electric utility facilities

---

27 Petition for Reconsideration of Florida Power & Light at 10 (filed Feb. 8, 2001)("FPL Petition").

28 Commonwealth Edison Petition at 3.

29 RAA Petition at 22.

do extend into MTEs, that collocation of electric and telephone wires through the same pathways is precluded by local safety codes.[30] Section 224 already provides an exemption from its access requirements for reasons of safety.[31] Of course, the Commission has recognized that "[a] denial of access, while proper in some cases, is an exception to the general mandate of Section 224(f)."[32] Moreover, that the collocation of electric and telephone wires is a routine process is indicated by the inclusion of standards for it in the National Electric Safety Code and National Electrical Code.[33] These matters were considered by the Commission in the initial rulemaking and Commonwealth Edison fails to provide in its Petition new evidence or arguments not considered by the Commission to justify reconsideration.

V. THE COMMISSION SHOULD REJECT PETITIONERS' CONTENTIONS THAT THE COMPETITIVE NETWORKS INTERPRETATION OF SECTION 224 EXCEEDS THE AGENCY'S AUTHORITY.

In the *Competitive Networks First Report and Order*, the Commission took the initial step of defining "right-of-way" to include, "at a minimum . . . a pathway [that] is actually used or has been specifically designated for use by a utility as part of its transmission and distribution network and . . . the boundaries of that pathway are clearly defined, either by written specification or by an unambiguous physical demarcation."[34] Commonwealth Edison claims that

---

30 Commonwealth Edison Petition at 3-4.

31 47 U.S.C. § 224(f)(2).

32 Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-185, *First Report and Order*, 11 FCC Rcd 15499 at ¶ 1222 (1996)("*Local Competition Order*").

33 See National Electrical Safety Code at §§ 224(A) and 354(D) (1996); see also National Electrical Code, Art. 800-52 (1999).

34 *Competitive Networks First R&O and FNPRM* at ¶ 82.

the Commission exceeded its authority by adopting a federal definition of right-of-way. To the contrary, such a practice is fully within the Commission's authority and may indeed be compelled as a function of its statutory duties. Determining which utility facilities and rights are subject to the federal statutory scheme is a fundamental element of interpreting, implementing, and enforcing the requirements of Section 224. Given that Congress did not define "right-of-way," the meaning of that term remains ambiguous for purposes of implementing Section 224. "Time is of the essence" with respect to the need for telecommunications carriers to obtain access to utility facilities and to resolve disputes arising under Section 224.[35] By giving some definition to the term "right-of-way," the Commission has furthered the goals of Section 224. Indeed, the Commission very well may have been obligated to define the term for purposes of implementing Section 224.[36] Moreover, because the term remains ambiguous and arises in the agency's organic statute, the Commission's interpretation is one that is afforded classic *Chevron* deference by the courts.[37] Again, the electric utilities advanced these arguments in the initial round of comments in this rulemaking[38] and they were considered and rejected by the Commission. Their Petitions offer no legitimate basis for reconsideration.

Similarly, RAA opposes the FCC's interpretation of "right-of-way" using arguments that have been advanced and, for good reason, rejected. The RAA Petition claims that the term

---

35 *Local Competition First Report and Order* at ¶ 1224.

36 See Moon Ho Kim v. INS, 514 F.2d 179, 181 (D.C. Cir. 1975)(rejecting federal agency's resort to state law definitions of adultery for purposes of administering a federal statute and, instead, requiring the application of a uniform federal standard as to the meaning of adultery under the federal statute).

37 Chevron U.S.A., Inc. v. Natural Resource Defense Council, Inc., 467 U.S. 837, 842-44 (1984) (holding that a court must give deference to an administrative agency's reasonable interpretation of a statutory provision).

38 See Comments of Florida Power & Light at 14-15, 24 (filed Aug. 27, 1999); see also Comments of American Electric Power, et al. at 17 (filed Aug. 27, 1999).

"right-of-way" has two simple meanings.[39] The Commission properly refused to adopt such an unreasonably narrow focus and complete ignorance of an enormous body of differing laws on the topic recognizing that there is no "accepted understanding" of the term "right-of-way."[40]

If the effective application of the statute is to be accomplished, the term "right-of-way" must be ascribed with some meaning. Defining "right-of-way" for purposes of implementing a federal statute is entirely consistent with decades of agency practice.[41] Moreover, it would be not only contrary to the Supremacy Clause, but also ludicrous to require a federal agency to defer to State definitions (all fifty of them, some of them contrary to others) when implementing a

---

39 RAA Petition at 19.

40 *Competitive Networks First Report and Order* at ¶ 82 ("We note, however, that the term 'right-of-way' can have a variety of meanings . . . .").

41 For example, prior to Congress' revisions to Section 332 of the Act in 1993, the Commission divided "land mobile radio services" into two categories: private land mobile services and public mobile services. Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services, GN Docket No. 93-252, *Second Report and Order*, 9 FCC Rcd. 1411 at ¶ 3 (1994). Similarly, in implementing Section 207 of the Act, the Commission broadly interpreted its statutory terms to include technologies that were not specifically enumerated by Congress. Section 207 directs the Commission to prohibit, pursuant to Section 303 of the Act, restrictions that impair reception of over-the-air video programming services. More recently, in its 1999 *Report and Order* implementing Section 222(e) of the Act, governing the provision by telecommunications carriers of subscriber list information to directory publishers, the Commission interpreted the statutory language "reasonable rates" to require carriers to charge rates that are based on cost for the information in order to promote competition in the directory publishing market. Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, *Third Report and Order*, 14 FCC Rcd. 15550 at ¶ 92 (1999) ("In the absence of explicit instructions from Congress, our task is to choose an approach that will, in our judgment, best further Congress' goals in enacting Section 222(e). We conclude that subscriber list information rates should allow LECs to recover their incremental costs of providing subscriber list information to directory publishers plus a reasonable allocation to common costs and overheads."); see also Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, 15 FCC Rcd 3696 at ¶¶ 44-47 (1999)(interpreting the meaning of the term "necessary" as used in Section 251(d)(2)(A) of the federal Communications Act).

federal statute.[42] Such an approach would nearly eviscerate the force and effective operation of a federal government.

In an effort to demonstrate that utilities do not possess ownership or control over ducts, conduits, and rights-of-way within MTEs, the RAA Petition asserts that "the right to enter a building is always subject to interference: a building owner may close and lock the building; may limit after-hours entry to its employees or tenants; may limit entry by service personnel to certain hours or conditions, such as by requiring that they be escorted; and so on."[43] Of course, any of these "interfering" building owner activities may be restricted or modified by the government. However, even if they are not so modified, the building owner's ability to restrict use of a utility's right-of-way in an MTE does not undermine the Commission's definition. Indeed, given that the statute provides for *nondiscriminatory* access, the competitive local exchange carrier receives the same access received by the utility. If the utility's access is restricted to certain hours, presumably so too will the CLEC's access be restricted to the same hours.

VI. THE COMMISSION SHOULD NOT RECONSIDER THE DEMARCATION POINT RULES ADOPTED IN THE *COMPETITIVE NETWORKS* DECISION.

The BellSouth Petition proposes modification of the Commission's rules to prohibit relocation of the demarcation point in an MTE until the all telecommunications service

---

42 See AT&T Corp. v. Iowa Utils. Bd., 525 U.S. 366, 378 n.6 (1999)("[T]he question in this case is not whether the Federal Government has taken the regulation of local telecommunications competition away from the States. With regard to the matters addressed by the 1996 Act, it unquestionably has. The question is whether the state commissions' participation in the administration of the new federal regime is to be guided by federal-agency regulations. If there is any 'presumption' applicable to this question, it should arise from the fact that a federal program administered by 50 independent state agencies is surpassing strange.")(emphasis added).

43 RAA Petition at 19.

subscribers on the premises provide written acknowledgement of and consent to the relocation.[44] The Commission should not impose a new requirement necessitating the approval of all tenants in an MTE prior to the trigger of a LEC's demarcation point relocation obligations. The *Competitive Networks* decision merely clarified and strengthened the Commission's existing demarcation point rules, but it did not fundamentally alter them. Prior to the adoption of the *Competitive Networks* decision, BellSouth already was charged with the obligation to relocate the demarcation point upon a landlord's request.[45] There is nothing in the *Competitive Networks* decision for the Commission to "reconsider" with respect to the party in control of the demarcation point relocation requirement.

BellSouth also suggests that relocation of the demarcation point may impair BellSouth's ability to maintain its tariffed service guarantees. Even if all tenants consent to demarcation point relocation, BellSouth fails to explain how its recommended revision will somehow permit BellSouth to avoid the service impairment risk. Moreover, BellSouth fails to explain how service degradation would occur if it were required to relocate the demarcation point. These concerns were considered and rejected by the Commission years ago in its initial consideration of demarcation point rules.[46] Given BellSouth's failure to provide any new basis for concern, it

---

44 BellSouth Petition at 4.

45 See, e.g., Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of Section 68.213 of the Commission's Rules filed by the Electronic Industries Association, CC Docket No. 88-57, RM-5643, *Order on Reconsideration, Second Report and Order and Second Further Notice of Proposed Rulemaking*, 12 FCC Rcd 11897 at ¶ 32 (1997)("Carriers may not use claims of ownership as a basis for imposing restrictions on the customer's or building owner's removal, rearrangement, replacement or maintenance of such [inside] wiring."); see id. at ¶ 11.

46 See, e.g., Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of Section 68.213 of the Commission's Rules filed by the Electronic Industries Association, CC Docket No. 88-57, *Report and Order and Further Notice of Proposed Rule Making*, 5 FCC Rcd 4686 at ¶ 35 (1990)("[T]he Commission

offers an insufficient basis for reconsideration of the Commission's existing demarcation point rules.

Finally, BellSouth raises the existence of its tariffs as a barrier to FCC action.[47] It is beyond question that the Commission may require a local exchange carrier to modify the terms of its tariffs in order to comply with its rules.[48] Those tariff provisions of BellSouth that do not provide for compliance with the Commission's rules cannot be deemed a barrier to the agency enforcing its rules. BellSouth will simply have to modify its tariffs consistent with its federal regulatory requirements.

BellSouth also suggests that a demarcation point relocation will entail the relocation of customer-owned or customer-leased facilities.[49] This issue was addressed during the course of the Commission's original consideration of the *Competitive Networks* decision.[50] To reiterate, the relocation of the demarcation point will not affect customer-owned or customer-leased facilities. To the extent that facilities (facilities such as a PBX or multiplexer) are located on the customer-side of the demarcation point after that point is moved to the MPOE, the facilities will remain customer-specific, even if they are ILEC-owned facilities, after the demarcation point is moved. The ILEC's or customer's ownership and control of those facilities will not be affected

---

believes that the possibility of network harm occurring from inside wiring operations including access to wiring at the demarcation point is not substantial.").

47 BellSouth Petition at 3.

48 47 U.S.C. § 205.

49 BellSouth Petition at 4.

50 See Letter from Gunnar D. Halley, Willkie Farr & Gallagher to Leon J. Jackler, Federal Communications Commission (filed May 10, 2000).

and there is no need to move those facilities in the event of a demarcation point location change. Similarly, CAIS explained in its initial-round reply comments that:

> [I]t is already common practice to place provider-owned electronic equipment on the customer's side of the demarcation point. This practice is frequently used by ILECs when they offer bundled data and voice services. For example, frame relay services may be offered by an ILEC, bundled with the same provider's local voice services, on one T-1 circuit. This will require placement of electronic equipment (a PBX or MUX) on the customer's side of the demarc. Therefore, it is unreasonable for incumbents to assert that moving the point of demarcation to the minimum point of entry will always require relocation of electronics.[51]

Again, BellSouth raises issues already considered by the Commission and fails to offer any legitimate basis for reconsideration of the Commission's rules.

On a matter related to demarcation point relocation obligations, Verizon asks the Commission to clarify that the telephone company may designate by posting on its website a person or organization to whom the landlord's notice must be sent in order to begin the 10-day notice period. The SBPP supports Verizon's request as reasonable as long as the telephone company's posting is not buried within the website. In order to accomplish the goal that Verizon itself seems to advocate -- the building's owner's effective notification to the ILEC without the delay that can be caused by confusion or misdirection of the notification -- the relevant contact at the telephone company should be easily obtained on the website such as via a link on first page directed to landlords or demarcation point issues. The Commission should not permit a telephone company to evade proper notification -- and hence avoid its relocation requirements -- by making it difficult for the building owner to ascertain the appropriate contact person at the telephone company.

---

[51] Reply Comments of CAIS, Inc. at 5 (filed Sep. 27, 1999).

VII. THE COMMISSION SHOULD AFFIRM ITS OTARD EXTENSION.

The RAA makes several well-worn objections to the extension of the Commission's OTARD provisions to cover antennas transmitting telecommunications services.[52] Yet again, it fails to produce any analysis or factual basis that the Commission has not already considered and wisely rejected. The theme of the RAA's objections to the Commission's actions is premised upon a mistaken belief that the Commission went beyond the directions provided by Section 207 and exceeded its authority in doing so.[53] The RAA objects to the judicially-approved application of agency expertise to rapidly changing circumstances that is deliberately inherent in the combination of federal agency structure and broad congressional directives.[54] The Commission's scope of authority is not limited to those matters expressly mentioned in the Communications Act.[55] Indeed, the Commission's actions were not only well within its authority, but there

---

52 RAA Petition at 10-15.

53 Id.

54 See, e.g., Storer Broadcasting Co., 351 U.S. 192, 203 (1956)(The Commission's "authority covers new and rapidly developing fields. . . . The Communications Act must be read as a whole and with appreciation of the responsibilities of the body charged with its fair and efficient operation. The growing complexity of our economy induced the Congress to place regulation of businesses like communication in specialized agencies with broad powers. Courts are slow to interfere with their conclusions when reconcilable with statutory directions.")(citations omitted); See also F.C.C. v. Pottsville Broadcasting Co., 309 U.S. 134, 138 (1940)("Underlying the whole law is recognition of the rapidly fluctuating factors characteristic of the evolution of broadcasting and of the corresponding requirement that the administrative process possess sufficient flexibility to adjust itself to these factors."); see also WNCN Listeners Guild, 450 U.S. at 594 (reiterating the Court's recognition that "Congress had granted the Commission broad discretion in determining how [the goals of the Act] could best be achieved" and the Court's continued emphasis on "the Commission's broad power to regulate in the public interest."); see also National Broadcasting Co. v. U.S., 319 U.S. 190, 219 (1943)(explaining that Congress "did not frustrate the purposes for which the Communications Act of 1934 was brought into being by attempting an itemized catalogue of the specific manifestations of the general problems for the solution of which it was establishing a regulatory agency.").

55 See, e.g., National Broadcasting Co. v. U.S., 319 U.S. at 219 ("While Congress did not give the Commission unfettered discretion to regulate all phases of the radio industry, it did not frustrate the purposes for which the Communications Act of 1934 was brought into being by attempting an itemized catalogue of the specific manifestations of the general problems for the solution of which it was establishing a regulatory agency").

remains much more the Commission can and should do to prevent the severe impairment of facilities-based telecommunications competition that unreasonable access restrictions cause.[56]

VIII. IF MODIFIED, THE COMMISSION'S BAN ON EXCLUSIVES MUST CONTINUE TO PREVENT CARRIERS FROM ENTERING INTO ACCESS ARRANGEMENTS THAT WOULD EXCLUDE FIXED WIRELESS CARRIERS.

Verizon Wireless asks the FCC to exclude CMRS common carriers from the exclusivity prohibition.[57] The SBPP believes that exclusive access arrangements may impair consumer choice even in the context of mobile wireless. The same policy and legal justifications for prohibiting exclusives within buildings apply to mobile wireless siting on buildings, as well. If the Commission is inclined to grant the Verizon Wireless request, the SBPP urges the Commission to make clear that CMRS providers remain prohibited from entering into exclusive access agreements that would prohibit access by fixed wireless common carriers -- carriers that must have access to the rooftop of the specific building in order to serve the tenants therein.

---

[56] See Smart Buildings Policy Project Further Comments.

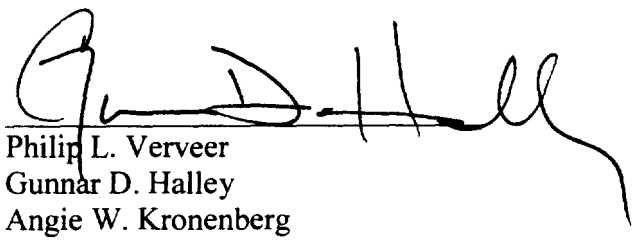
[57] Petition for Reconsideration of Verizon Wireless at 3 (filed Feb. 12, 2001).

IX. CONCLUSION

For the foregoing reasons, the SBPP respectfully urges the Commission to deny the Petitions for Reconsideration filed by BellSouth, Commonwealth Edison, Florida Power & Light, and the Real Access Alliance, and to grant the other Petitions consistent with the recommendations herein.

Respectfully submitted,

SMART BUILDINGS POLICY PROJECT

By: 

Philip L. Verveer
Gunnar D. Halley
Angie W. Kronenberg

WILLKIE FARR & GALLAGHER
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036
(202) 328-8000

Attorneys for the
SMART BUILDINGS POLICY PROJECT

Dated: March 14, 2001

CERTIFICATE OF SERVICE

I, Rosalyn Bethke, do hereby certify that on this 14th day of March, 2001, copies of the Smart Buildings Policy Project's Comments In Response To Petitions For Reconsideration were delivered by first-class mail, unless otherwise designated, to the following parties:

Magalie Roman Salas*
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, DC 20554

Chairman Michael Powell*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8B201
Washington, DC 20554

Commissioner Susan Ness*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8B115
Washington, DC 20554

Commissioner Gloria Tristani*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8C302
Washington, DC 20554

Commissioner Harold Furchtgott-Roth*
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8A302
Washington, DC 20554

Peter Tenhula*
Senior Legal Advisor
To Chairman Powell
Federal Communications Commission
The Portals
445 12th Street, S.W., Suite 8B201
Washington, DC 20554

Mark Schneider*
Senior Legal Advisor
To Commissioner Ness
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8B115
Washington, DC 20554

Adam Krinsky*
Legal Advisor To
Commissioner Tristani
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8C302
Washington, DC 20554

Helgi Walker*
Senior Legal Advisor And
Chief Of Staff To Commissioner
Harold Furchtgott-Roth
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 8A302
Washington, DC 20554

Jane Mago*
Acting General Counsel
Office Of The General Counsel
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby
Washington, DC 20554

Jonathan Nuechterlein*
Deputy General Counsel
Office Of The General Counsel
Federal Communications Commission
445 12th Street, S.W.
8th Floor (OGC)
Washington, DC 20554

Joel D. Taubenblatt, Esq. *
Commercial Wireless Division
Federal Communications Commission
445 12th Street, S.W., Room 4-A260
Washington, DC 20554

Eloise Gore*
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Paul Noone*
Commercial Wireless Division
Wireless Telecommunications
Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Richard Arsenault*
Wireless Telecommunications
Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Joel Kaufman*
Deputy Chief
Administrative Law Division
Office Of The General Counsel
Federal Communications Commission
445 12th Street, S.W., Room 8-A668
Washington, DC 20554

Jim Schlichting*
Wireless Telecommunications Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Suite 3C-252
Washington, DC 20554

Lauren Van Wazer*
Senior Attorney
Policy & Rules Branch
Commercial Wireless Division
Wireless Telecommunications
Bureau
Federal Communications Commission
445 12th Street, S.W., Room 4-A223
Washington, DC 20554

Cheryl King*
Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Thomas Sugrue*
Chief
Wireless Telecommunications Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Suite 3C-252
Washington, DC 20554

Jeffrey S. Steinberg*
Deputy Chief
Commercial Wireless Division
Federal Communications Commission
445 12th Street, S.W., Room 4-C236
Washington, DC 20554

Wilbert Nixon*
Commercial Wireless Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

International Transcription Services, Inc.*
1231 20th Street, N.W.
Washington, DC 20037

Theodore R. Kinsley
Angela N. Brown
BellSouth Corporation
Suite 4300
675 West Peachtree Street, N.E.
Atlanta, GA 30309-00001

Mark Rubin*
Commercial Wireless Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

David Horowitz*
Attorney - Advisor
Office Of The General Counsel
Federal Communications Commission
445 12th Street, S.W., Room 8-A636
Washington, DC 20554

Leon Jackler*
Attorney
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., 4-A207
Washington, DC 20554

David Furth*
Commercial Wireless Division
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Jean G. Howard
Florida Power & Light Company
9250 West Flagler Street
Miami, FL 33174

Shirley S. Fujimoto
Christine M. Gill
Thomas P. Steindler
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096
Attorneys for Commonwealth Edison Co. and Duke Energy Corporation

Gerard Lavery Lederer
Vice President – Industry and
Government Affairs
Building Owners and Manager
Association International
Suite 300
1201 New York Avenue, N.W.
Washington, DC 20005
Of Counsel for the Real Access Alliance

Roger Platt
Vice President & Counsel
Real Estate Roundtable
Suite 1100
1420 New York Avenue, N.W.
Washington, DC 20005
Of Counsel for the Real Access Alliance

Reba Raffaelli
Vice President & General Counsel
National Association of Industrial &
Office Properties
2201 Cooperative Way
Herndon, VA 20171
Of Counsel for the Real Access Alliance

Clarine Nardi Riddle
General Counsel
National Multi Housing Council
Suite 540
1850 M Street, N.W.
Washington, DC 20036
Of Counsel for the Real Access Alliance

Margaret L. Tobey
Christina Chou Pauzé
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, DC 20006
Counsel for the Satellite Broadcasting
& Communications Association/
Satellite Industry Association Satellite
Broadband & Internet Division

Matthew C. Ames
James R. Hobson
Nicholas P. Miller
Miller & Van Eaton, P.L.L.C.
Suite 1000
1155 Connecticut Ave., N.W.
Washington, DC 20036
Attorneys for the Real Access Alliance

Bruce Lundegren
National Association of Home Builders
1201 15th Street, N.W.
Washington, DC 20005
Of Counsel for the Real Access Alliance

Tony Edwards
General Counsel
National Association of Real Estate
Investment Trusts
1875 Eye Street, N.W.
Suite 600
Washington, DC 20006
Of Counsel for the Real Access Alliance

Steven S. Rosenthal
Cooper, Carvin & Rosenthal, PLLC
Suite 200
1500 K Street, N.W.
Washington, DC 20005
Of Counsel for the Real Access Alliance

Russell H. Fox
Russ Taylor
Mintz, Levin, Cohn, Ferris,
Glovsky & Popeo, P.C.
701 Pennsylvania Ave., N.W.
Washington, DC 20004
Attorneys for
Triton Network Systems, Inc.

Michael E. Glover
Edward Shakin
Of Counsel
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
Attorneys for Verizon
Telephone Companies

Lawrence W. Katz
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
Attorneys for Verizon
Telephone Companies

John T. Scott, III
Vice President & Deputy General
Counsel – Regulatory Law
Verizon Wireless
1300 Eye Street, N.W.
Suite 400 West
Washington, DC 20005

Andre J. Lachance
Regulatory Counsel
Verizon Wireless
1300 Eye Street, N.W.
Suite 400 West
Washington, DC 20005

Paul J. Sinderbrand
Robert D. Primosch
Wilkinson Barker Knauer, LLP
Suite 700
2300 N Street, N.W.
Washington, DC 20037-1128
Attorneys for The Wireless
Communications Association
International, Inc.

Rosalyn Bethke

Rosalyn Bethke

* By Hand Delivery